

Message Text

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ACTION ARA-10

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E. O. 11652: N/A

TAGS: ELAB, SHUM, PFOR, CI

SUBJECT: CHILE REAFFIRMS ADHERENCE TO ILO CONVENTION PROHIBITING
DISCRIMINATION AS CONDITION FOR EMPLOYMENT

REF: SANTIAGO 9001 (NOTAL)

1. CHILEAN MINISTRY OF LABOR DECREE 383, SIGNED AUGUST 20
AND PUBLISHED SEPTEMBER 16, REASSERTS CHILE'S ADHERENCE TO
ILO CONVENTION 111, PROHIBITING DISCRIMINATION ON THE BASIS INTER
ALIA OF POLITICAL OPINION AS A CONDITION FOR EMPLOYMENT. CHILE
RATIFIED THE CONVENTION IN 1971.

2. THE MINISTRY TELLS US IT WANTED TO REFUTE CONTENTIONS ADVANCED
DURING THE JUNE 1976 ILO MEETING THAT THE JUNTA HAD LAID THE
CONVENTION ASIDE. FURTHERMORE, THE LABOR OFFICIAL SAID, THE GOC
SOUGHT BETTER TO DEFINE THE RIGHT AGAINST DISCRIMINATION IN
EMPLOYMENT GUARANTEED BY ARTICLE 20 OF CHILEAN CONSTITUTIONAL
ACT NUMBER 3, SIGNED ON SEPTEMBER 11 (REFTEL).

3. PARAGRAPH THREE OF THE DECREE DEFINES AS NON-DISCRIMINATORY,
MEASURES TAKEN AGAINST PERSONS LIGITIMATELY SUSPECTED OF ENGAGING
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IN ACTIONS PREJUDICIAL TO THE SECURITY OF THE STATE OR WHERE THERE

IS DE FACTO EVIDENCE OF SUCH ACTIVITY. IT PROVIDES FOR SUCH PERSONS
TO HAVE THEIR CASES HEARD BEFORE A TRIBUNAL OF "COMPETENT JURISDICTION

IN ACCORDANCE WITH NATIONAL PRACTICE."

4. COMMENT: THE REFERENCE TO "LEGITIMATE SUSPICION" AND THE
UNSPECIFIC DESCRIPTION OF THE APPROPRIATE COURT HAVE
ATTRACTED CRITICISM, GIVEN THE CURRENT SITUATION IN CHILE. RADIO
BALMACEDA, "VOICE" OF THE CHRISTIAN DEMOCRATIC PARTY (PDC),
CALLED THE DECREE AN EXTENSION OF THE GOC'S AUTHORITY.
IN FACT, THE "LEGITIMATE SUSPICION" CONCEPT AND THE PROVISION
FOR TRYING SUCH PERSONS BEFORE A TRIBUNAL OF "COMPETENT JURISDICTION
IN ACCORDANCE WITH NATIONAL PRACTICE" WERE TAKEN VERBATIM FROM
ARTICLE FOUR OF ILO CONVENTION 111.

5. THE NEW DECREE POINTS UP THE FACT THAT INTERNATIONALLY ACCEPTED
PRACTICES FOR HUMAN RIGHTS DO ALLOW STATES AMPLE LATITUDE TO
DEFEND THEIR OWN SECURITY. IN ISSUING THE DECREE NOW, THE GOC
INTENDED ALSO TO RELATE THE ILO DEFINITION TO THE GUARANTEE
IN ITS NEW CONSTITUTIONAL ACT ON RIGHTS AND DUTIES; BY CAREFULLY
INCORPORATING THE CONCEPT OF "LEGITIMATE SUSPICION," THE NEW
DECREE LIMITS THE PROTECTION THEORETICALLY PROVIDED BY THE
CONSTITUTIONAL ACTS. THEORY ASIDE, WE DOUBT THE DECREE WILL HAVE
ANY SIGNIFICANT IMPACT ON CHILE'S INTERNAL SECURITY PRACTICES.
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